

January 29, 2010

*Via ECFS*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Ex Parte Meeting, WC Docket No. 09-104**

Dear Secretary Dortch:

On January 28, 2010, Lauren Van Wazer, Chief Policy and Technology Counsel, Cox Enterprises, Inc., Bill Chandler, Director Wireless Wholesale and Roaming, Cox Wireless, and the undersigned, counsel to Cox Communications, met with Kathy Harris, Nese Guendelsberger, Monica DeLong, Stacy Ferraro, Stana Kimball, Neil Dellar, Joel Rabinovitz, Christina Clearwater, Brenda Boykin, and Susan Singer of the FCC's Wireless Bureau and Office of General Counsel, and separately with James Schlichting of the Wireless Bureau. The parties discussed the information that Cox provided in the presentation attached to this letter regarding concerns over AT&T's acquisition of ALLTEL's network facilities. As detailed in the presentation, Cox noted that, as a result of the proposed transaction, Verizon Wireless would be the only viable CDMA/EVDO roaming option in many of the CMAs subject to the sale.

In accordance with Section 1.1206 of the FCC's rules, one copy of this letter is being filed electronically via ECFS, and one will be delivered via email to each of the FCC participants.

Respectfully submitted,

*/s/ Michael H. Pryor*

Michael H. Pryor  
*Counsel for Cox*

Enclosures

cc (via email): Kathy Harris  
Nese Guendelsberger  
Monica DeLong  
Stacy Ferraro

**Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.**

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Stana Kimball  
Neil Dellar  
Joel Rabinovitz  
Christina Clearwater  
Brenda Boykin  
Susan Singer  
James Schlichting



# Cox Communications

Ex Parte Meeting

WT Docket No. 09-104

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# Introduction to Cox Communications

- Brief Overview of Company
- Cox is a New Wireless Entrant
  - Cox is entering the market using a combination of its own spectrum and reselling Sprint services.
  - Cox will build out its own network using 700 MHz/AWS spectrum and CDMA/EVDO Rev-A Air Interface and longer term, LTE over 700 MHz /AWS. Cox has spent over \$550 million for spectrum
  - Cox just completed successful trials of voice and video streaming using 4G LTE technology in Phoenix and San Diego
  - Cox will soon be initiating commercial 3G service in three markets: Hampton Roads, VA; Orange County, CA; and Omaha, Neb.

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# Cox's Proposed Wireless Services Will Compete with Incumbent Offerings

- Wireless entry is driven by a desire to enhance the product experience of Cox customers and is needed to compete with Verizon/AT&T quadruple play.
- In many markets, Cox will be competing head-to-head with Verizon for voice, video, broadband and wireless customers.
- Cox will need reasonable roaming agreements with Verizon Wireless in order to successfully offer its new wireless products.

# Divesting ALLTEL's Assets to AT&T Will Diminish Roaming Options

- The Proposed Divestiture to AT&T Diminishes Critical Roaming Opportunities
  - ALLTEL was a potential voice and data roaming partner because it operated a CDMA/EVDO network that is compatible with Cox's network.
  - AT&T operates a GSM network. If AT&T shuts down the CDMA/EVDO network and replaces it with a GSM network, Cox will lose a significant potential roaming option.
- The applicants' assertion that sufficient CDMA roaming options remain, even if AT&T shuts down the network, is unfounded.
  - Cox's comments identified 57 CMAs where the transaction would leave, at best, only one realistic roaming option -- Verizon Wireless. AT&T's December 3<sup>rd</sup> response to the Bureau's request to identify CDMA alternatives confirms that concern.
  - In these CMAs, Verizon Wireless will have substantial ability and incentive to hinder Cox's ability to obtain reasonable roaming arrangements. Cox has thus proposed conditions specific to this transaction to mitigate this harm.

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# AT&T's Submission Confirms Lack of Roaming Options

- Cox's comments listed 57 CMAs of most concern. These are CMAs where Verizon Wireless appeared to be the only real CDMA/EVDO roaming option post-divestiture. These CMAs are particularly important given their geographical proximity to some of Cox's initial wireless markets.
- AT&T's December 3, 2009 response purportedly identifying CDMA alternatives is misleading:
  - Only carriers with operating networks should be considered. AT&T appears to identify a number of "alternatives" who may have spectrum, but have not built out a network.
  - AT&T's response concedes that Verizon Wireless will be the only operating CDMA/EVDO provider in 15 of the 57 CMAs identified by Cox.

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# AT&T's Submission Confirms Lack of Roaming Options - cont'd

- In an additional 24 of the 57 CMAs, AT&T identified Sprint as the only CDMA provider besides Verizon.
  - Sprint has filed comments stating that its roaming options in the divested CMAs will be substantially reduced.
- AT&T mistakenly identifies Sprint as an alternative in the Montana and North Dakota CMAs identified by Cox. Sprint does not operate networks throughout those states, and thus is not a viable alternative in those CMAs.



# AT&T's Submission Confirms Lack of Roaming Options - cont'd

- In the remaining CMAs identified by Cox, AT&T lists various small carriers as CDMA alternatives in addition to Verizon Wireless and/or Sprint. However, many of the proposed alternatives have limited coverage, have not upgraded to EVDO, or do not have 850 MHz spectrum.
  - Examples:
    - Blanco Telephone Company identified in 2 CMAs. Coverage is minimal: 5 cell sites in parts of two counties.
    - Sagebrush/Nemont identified in 5 CMAs. Limited coverage, split licenses.
    - James Valley Cooperative identified in 2 CMAs. Limited coverage.
    - South Central Utah identified in 1 CMA. Although it provides some incremental coverage to Sprint and Verizon Wireless, it is not as widespread as was ALLTEL and has not upgraded to EVDO.

# Potential Harm to Cox from Proposed Divestiture Transaction

- If AT&T shuts down the CDMA/EVDO network, Cox will practically have only one roaming option, Verizon Wireless.
- As the only roaming option, Verizon Wireless has greater ability to impose unfair terms.
- Cox's attempts to negotiate reasonable roaming terms with Verizon Wireless have been fruitless.

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# Proposed Conditions for CMAs Identified by Cox Mitigate the Harm

- Where AT&T's refusal to continue to operate a CDMA network would result in no CDMA alternative, AT&T should be required to continue the CDMA network for the lesser of five years or until deployment of next-generation LTE networks.
- Where Verizon is the sole CDMA alternative, Verizon Wireless should allow competing wireless providers that do not have existing ALLTEL or Verizon Wireless roaming agreements to opt into an existing Verizon Wireless or ALLTEL roaming agreement.
  - Merger Order's conditions are insufficient because, as a new entrant, Cox does not have existing roaming agreements to extend.

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# Proposed Conditions for CMAs Are Appropriate

- It is appropriate to impose conditions on Verizon Wireless.
  - Conditions are transaction specific.
  - Timely raised in this proceeding.
    - The FCC deferred questions regarding the soundness of any specific divestiture until an application was filed. In rejecting any proposed conditions on the Divestiture Assets during consideration of the ALLTEL transaction the FCC stated: “We remind commenters that the qualifications of the entity(ies) acquiring the Divestiture Assets and whether the specific transaction is in the public interest will be evaluated when an application is filed seeking the Commission’s consent to the transfer or assignment of the Divestiture Assets.” *Verizon/ALLTEL Merger Order* ¶ 162.

# Questions?

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